



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2867



October 25, 2002

Eric Crainich, President
Design Standards Corporation
PO Box 1620
Charlestown, NH 03603

Re: Administrative Fine by Consent Agreement Fine No. AF 02-015

Dear Mr. Crainich:

Enclosed for your records is a copy of the Administrative Fine by Consent Agreement in this matter executed by Philip J. O'Brien, Director of the Waste Management Division, and accepted by Assistant Commissioner Bisbee on October 23, 2002. On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY

Michael P. Sclafani
DES Legal Unit

Enclosure

cc: Gretchen Rule, DES Legal Unit
Arpiar G. Saunders, Jr., Esq., Shaheen & Gordon
Town of Charlestown, Sewer Department, c/o Selectmen's Office P.O. Box 385
Town Clerk, Charlestown, NH



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2900 FAX (603) 271-2456



October 10, 2002

OCT 21 2002
LEGAL UNIT

Eric Crainich, President
Design Standards Corporation
P.O. Box 1620
Charlestown, NH 03603

Re: Design Standards Corporation, Charlestown, New Hampshire
EPA ID # NHD 982769473

Dear Mr. Crainich:

As a follow up to our meeting on July 18, 2002, please find enclosed the revised Administrative Fine by Consent Agreement ("Agreement") that we negotiated in principle for Administrative Fine No. AF 02-015. If acceptable, please execute the Agreement and return the original, with payment, to the address specified in Paragraph V.4 of the Agreement.

On behalf of the Department of Environmental Services, Waste Management Division, I would like to take this opportunity to thank you for your efforts to resolve this action through negotiation and settlement. We appreciated your forthright and cooperative approach to this process and believe that the Agreement has resulted in a fair and equitable resolution of the matter.

If you have any questions or concerns regarding the Agreement, please contact Linda Birmingham, Enforcement Manager, or me at 271-2942. We will expect to hear from you by November 1, 2002.

Sincerely,

John J. Duclos, Supervisor
Hazardous Waste Compliance Section
Waste Management Division

E-Mail Route: KWM

cc: DB/RCRA/AF
Gretchen Rule, Esq., DES/OC Legal Unit
Arpiar G. Saunders, Jr., Esq., Shaheen & Gordon
Public Information Coordinator, DES
Town of Charlestown, Sewer Department, c/o Selectmen's Office, P.O. Box 385
Town Clerk, Charlestown, NH
Enclosure: Administrative Fine by Consent



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Design Standards Corporation
P.O. Box 1620
Charlestown, NH 03603

**ADMINISTRATIVE FINE
BY CONSENT**

No. AF 02-015

I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Design Standards Corporation, pursuant to RSA 147-A:17-a. This Administrative Fine by Consent ("Agreement") is effective upon signature by all parties.

II. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its main office at 6 Hazen Drive, Concord, NH.
2. Design Standards Corporation ("Design Standards") is a New Hampshire corporation that registered with the New Hampshire Secretary of State's Office on August 26, 1988. Design Standards has a mailing address of P.O. Box 1620, Charlestown, NH.

III. BACKGROUND

1. Pursuant to RSA 147-A, DES regulates the management and disposal of hazardous waste. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted Env-Wm 100-1100 ("Hazardous Waste Rules") to implement this program.
2. Pursuant to RSA 147-A:17-a, the Commissioner is authorized to impose fines of up to \$2,000 per violation for violations of RSA 147-A or rules adopted pursuant thereto. Pursuant to this section, the Commissioner has adopted Env-C 612 to establish the schedule of fines for such violations.
3. Design Standards is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES as a generator and marketer of "waste oil for recycle" on March 20, 1996. EPA Identification Number NHD982769473 was assigned to Design Standards' site located at 182 Ceda Road in Charlestown, NH.
4. On March 16, 2000 and April 6, 2001, DES personnel inspected Design Standards for compliance with RSA 147-A and its implementing regulations, the New Hampshire Hazardous

Waste Rules, codified as Env-Wm 100-1100. As a result of violations of the Hazardous Waste Rules observed during these inspections, DES issued Administrative Order No. WMD 01-08 ("Order") to Design Standards on June 14, 2001. Based on observations during the inspections listed above, DES believes that an administrative fine is appropriate in this case for the Class I violations.

IV. ALLEGATIONS, ADMINISTRATIVE FINES

1. Specifically, the Order cited Design Standards for failing to obtain a permit for disposal of hazardous waste into the Charlestown Publicly Owned Treatment Works ("POTW"), as required by RSA 147-A:4, I, ("Violation 1"). Env-C 612.03(b) authorizes a fine of \$2,000 per disposal event, for a potential fine of \$2,000.
2. Specifically, the Order cited Design Standards for failing to obtain a permit for the treatment of hazardous waste, as required by RSA 147-A:4, I, ("Violation 2"). Env-C 612.03(a) authorizes a fine of \$2,000 per treatment or storage unit, for a potential fine of \$2,000.
3. Specifically, the Order cited Design Standards for failing to conduct adequate waste determinations on six (6) waste streams, as required by Env-Wm 502.01 ("Violation 3"). Env-C 612.05(a) authorizes a fine of \$1,500 per determination, for a potential fine of \$9,000.
4. Specifically, the Order cited Design Standard for failing to notify DES of changes in notification information, as required by Env-Wm 504.02(d) ("Violation 4"). Env-C 612.08(e), which references Env-Wm 504.02(c), modified in August 2000 to Env-Wm 504.02(d), authorizes a fine of \$500, for a potential fine of \$500.
5. Specifically, the Order cited Design Standards for failing to close three (3) 55-gallon containers of hazardous waste, as required by Env-Wm 507.01(a)(3) ("Violation 5"). Env-C 612.06(c)(1) authorizes a fine of \$400 for each container that is 55-gallons or greater, for a potential fine of \$1,200.
6. Specifically, the Order cited Design Standards for failing to mark three (3) 55-gallon containers with the beginning accumulation date, as required by Env-Wm 507.03(a)(1)a. ("Violation 6"). Env-C 612.06(k) authorizes a fine of \$250 for each container that is 55-gallons or greater, for a potential fine of \$750.
7. Specifically, the Order cited Design Standards for failing to mark three (3) 55-gallon hazardous waste containers with the words "Hazardous Waste", and the EPA or state waste number as required by Env-Wm 507.03(a)(1)b., and d. ("Violation 7"). Env-C 612.06(l) authorizes a fine of \$600 for each container that is 55-gallons or greater, for a potential fine of \$1,800.

8. Specifically, the Order cited Design Standards for failing to conduct inspections of the hazardous waste storage area as required by Env-Wm 509.02(a)(1) ("Violation 8"). Env-C 612.07(a) authorizes a fine of \$1,000 per inspection per area, for a potential fine of \$1,000.
9. Specifically, the Order cited Design Standards for failing to perform one (1) year of annual hazardous waste training for one (1) employee (operator of electropolish and passivation operations) with hazardous waste management duties, as required by Env-Wm 509.02(a)(2) ("Violation 9"). Env-C 612.07(b) authorizes a fine of \$1,000 per individual not trained for annual updates, for a potential fine of \$1,000.
10. Specifically, the Order cited Design Standards for failing to maintain an adequate contingency plan on-site as required by Env-Wm 509.02(a)(5) ("Violation 10"). Env-C 612.07(e) authorizes a fine of \$2,000, for a potential fine of \$2,000.
11. Specifically, the Order cited Design Standards for failing to post complete emergency information at the nearest telephone to the one (1) hazardous waste storage area, as required by Env-Wm 509.02(b) ("Violation 11"). Env-C 612.07(h) authorizes a fine of \$1,000 per area, for a potential fine of \$1,000.

V. PAYMENT, WAIVER OF HEARING

1. DES agrees to waive any fines associated with Violations 4 – 9, and 11, because they are not Class I violations.
2. Design Standards agrees to pay \$7,100 as itemized below for Violations 1-3 and 10, which are Class I violations.
 - a. Violation 1 is a Class I violation. DES has determined that due to Design Standards' high level of cooperation in providing information and its effort to correct the violation, that a 25% reduction should be applied. DES is thus seeking a fine of \$1,500.
 - b. Violation 2 is a Class I violation. DES has determined that due to Design Standards' high level of cooperation in providing information and its effort to correct the violation, that a 25% reduction should be applied. DES is thus seeking a fine of \$1,500.
 - c. Violation 3 is a Class I violation. Design Standards submitted documentation that three (3) waste streams were analyzed and determined to be non-hazardous and the electropolish and passivation rinsewaters were analyzed as one (1) waste stream. DES is thus seeking a penalty of \$3,000 for failing to perform two (2) hazardous waste determinations (*i.e.* vibratory polish wastewater and passivation/electropolish rinsewater).
 - d. Violation 10 is a Class I violation. Design Standards submitted documentation that some of the required emergency information was available in other emergency plans maintained at the facility. DES has determined that due to Design Standards' good faith effort to comply,

high level of cooperation, and its effort to correct the violation, that a 45% reduction should be applied (*i.e.* 20% for good faith effort to comply and 25% for cooperation). DES is thus seeking a fine of \$1,100.

- 3 Design Standards agrees to pay the \$7,100 in two (2) payments as follows:
 - a. \$3,550 of the fine shall be due and payable upon execution of this Agreement by Design Standards.
 - b. \$3,550 shall be paid within thirty-five (35) days from execution of this Agreement by Design Standards.

4. Payment under Paragraph V.3 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and shall be mailed to:

DES Legal Unit
Attn: Michael Sclafani
PO Box 95
Concord, NH 03302-0095

5. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money Order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money Order, to cover the costs of collection.
6. By executing this Agreement, Design Standards waives its right to a hearing on or any appeal of the administrative fines identified in Section IV Paragraph 1 through 11, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.
7. The effective date of this Agreement will be the date on which it is signed by an authorized representative of Design Standards, and the Director of the Waste Management Division, and the Commissioner of DES.
8. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

DESIGN STANDARDS

COPY

Eric Crainich, President
Duly Authorized

10/18/02
Date

DEPARTMENT OF ENVIRONMENTAL SERVICES

COPY

Philip J. O'Brien, Ph.D., Director
Waste Management Division

10/22/02
Date

COPY

George Dajia Bisbee, Acting Commissioner
Department of Environmental Services

10/23/02
Date